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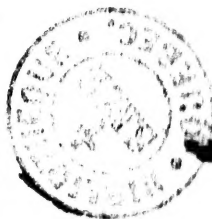
TO PROVIDE FOR THE

SUMMARY TRIAL OF SMALL OFFENCES

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rue de l'Université
Québec, Q. C.

CAP. XIX. 7 VICTORIÆ, 1843.

Sir C. C. Metcalfe, Baronet, G. C. B. Governor General,
Et. Et. Et.



Kingston:

PRINTED BY S. DERBISHIRE & G. DESBARATS
Printer to the Queen's Most Excellent Majesty

1843.



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C A P. XIX.

An Act to provide for the Summary Trial of
Small Causes in Lower Canada.

[9th December, 1843.]

WHEREAS experience hath shown, that an Preamble.
easy and expeditious mode of recovering petty

debts, and deciding causes where the matter in dispute is of small value, in Lower Canada, is materially beneficial to the Inhabitants of that portion of this Province; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by

the authority of the same, that whenever a petition praying for the establishment of a Commissioners' Court, for the purposes hereinafter mentioned, shall have been presented by at least one hundred proprietors of lands or tenements in any Parish, Township or extra-Parochial place in Lower Canada, to the Governor of this Province, it shall be lawful for him to appoint one or more persons resident in such Parish, Township or extra-Parochial place, to be Commissioner or Commissioners in and for the same, and to hold the Commissioners' Court therein, for the purposes of this Act: Provided always, that no appointment of a Com-

On Petition of the Inhabitants, Commissioners' Courts may be established in certain places.

Proviso.

missioner or Commissioners shall be made upon such Petition, unless it shall be certified thereupon to the Governor, by three of the principal Inhabitants of such Parish, Township or extra-Parochial place, that the persons whose names are thereunto subscribed, are really inhabitants of such Parish, Township or extra-Parochial place and proprietors of lands and tenements therein: And provided also, that no Bailiff, Sergeant of Militia, Tavern-keeper or person keeping a house of public entertainment, shall be appointed, or shall act as a Commissioner, for the purposes of this Act.

Proviso—Certain persons not to be Commissioners.

Circuit Judges to be Commissioners *ex officio* in Quebec and Montreal.

Proviso.

II. Provided always, and be it enacted, that in and for the Cities and Parishes of Quebec and Montreal, the Circuit Judges hereafter to be appointed in and for the Districts of the same names, respectively, under a certain Act passed during the present Session, shall be *ex officio* Commissioners for the purposes of this Act, and shall hold the Commissioners' Courts in and for the places aforesaid, respectively: Provided a petition, as hereinbefore required, be presented, and no other Commissioners shall at any time be appointed in and for the same: Provided also, that by the City and Parish of Quebec, the Parish of St. Roch shall be understood to be intended and included for all the purposes of this Act.

Amount of Jurisdiction of the Commissioners' Courts, and class of cases therein cognizable.

III. And be it enacted, that each of the Commissioners' Courts aforesaid, shall have power to hear, try and determine, in a summary way, according to the rights of the parties, and to equity, and good conscience, and to the best of the knowledge and judgment of the Commissioner or Commissioners by whom they shall be held, all suits and actions, (with the exceptions hereinafter made) purely personal or relating solely to moveable property, wherein the sum or the value of the thing demanded shall not exceed six pounds five shillings, currency, and the Defendant or Defendants

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shall be resident within the Parish, Township or extra-Parochial place, in and for which the Commissioner or Commissioners shall have been appointed.

IV. Provided always, and be it enacted, that the Jurisdiction of the Commissioners' Courts established under this Act shall not extend to actions for Slander, or for Assault or Battery, nor to such as shall relate to Paternity, or to the Civil Estate of persons in general, or for Seduction, or Lying-in expenses, or for any Fine or Penalty whatever. Exceptions.

V. And be it enacted, that any person under the age of twenty-one years, but above the age of fourteen years, may prosecute a suit in any Commissioners' Court held under this Act, for any sum of money not exceeding six pounds five shillings, currency, due to him for wages, in the same manner as if he were of full age; any law to the contrary notwithstanding. Persons under 21 but over 14 years, may sue for wages.

VI. And be it enacted, that in matters cognizable in the said Commissioners' Courts, proof by oral testimony shall be receivable and sufficient in all cases wherein, before the passing of this Act, it would have been receivable and sufficient, if the sum or the value of the thing in dispute had been of less than one hundred livres, *ancien cours*; and any law heretofore in force in Lower Canada, requiring proof in writing, or a commencement of proof in writing, in such cases, is hereby repealed. Oral testimony receivable tho' the amount in dispute exceed 100 livres.

VII. Provided also, and be it enacted, that whenever there shall not be a Commissioner appointed for and resident in the Parish, Township, or extra-Parochial place in which the Defendant shall reside, or if all the Commissioners be absent or sick, or unable to act as Commissioners, so that the Court cannot be held, then such Defendant may be sued before that other Com- Defendant may in certain cases be sued, before the nearest Court, tho' not in the same Parish, &c.

missioners' Court which shall be held nearest to the place in which the Defendant shall reside and in the same District, provided the distance do not exceed ten leagues; and in every case the suit may be brought before the Commissioners' Court nearest to the residence of the Defendant, although such Court be not within the same Parish, Township, or extra-Parochial place, provided it be within ten leagues, and in the same District.

One Court
only to be held
in each place.

Places for hold-
ing the Courts.

By whom
fixed.

To be men-
tioned in Sum-
mons, &c.

Times of hold-
ing the Courts.

VIII. Provided always, and be it enacted, that no more than one Court shall be held in any Parish, Township, or extra-Parochial place in Lower Canada, under this Act, although two or more Commissioners may have been appointed for the same; but the Court may be held by any one of such Commissioners, it being nevertheless competent to all the Commissioners appointed in and for the same place, to be present and to assist at such Court if need be, or if they think fit: and, except in the Cities and Parishes of Quebec and Montreal, the place where the Court shall be held in each parish, Township or extra-Parochial place, shall be near the Church, or at the most public and frequented place, and shall from time to time be fixed by the Commissioner, or by the majority of the Commissioners where there are more than two Commissioners in and for the same place, and when there are two Commissioners and no more, then by the Commissioner whose name is the first on the list; and in every Summons or Order of *Subpœna* to be issued under this Act, the place where the Court is to be held shall be mentioned.

IX. And be it enacted, that except in and for the Cities and Parishes of Quebec and Montreal, the Commissioners' Courts aforesaid shall be held on the first Monday of every month, not being a holiday, and if it be a holiday then on the following day, and on any other days to which they may then find it necessary to

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adjourn for hearing witnesses and for determining suits; and that such Courts, respectively, shall so be held publicly in some suitable room or place, which shall be provided for that purpose by the Clerks thereof, ^{Room to be provided by the Clerk.} under the direction of the Commissioners; and the expense of hiring and warming such room or place, and all other expenses necessary for the convenient holding of the said Courts shall be paid by such Clerks, respectively, out of the fees hereinafter assigned to them: Provided always, that no such Court shall at any time be held in any tavern or place of public entertainment, nor in any building thereunto appertaining.

Proviso.

X. And be it enacted, that in and for the said Cities and Parishes of Quebec and Montreal, respectively, ^{Times and places of holding the Courts in Quebec and Montreal.} the Commissioners' Court shall be held weekly on every Monday not being a holiday, and if it be a holiday then on the following day, and on such other days as it shall be adjourned to in the manner provided with regard to other Commissioners' Courts; and in and for the said Cities and Parishes the Commissioners' Courts shall be held in the Court Houses there situate, and in such part thereof as shall from time to time be assigned for the purpose by the Justices of the Courts of King's (or Queen's) Bench sitting in such Court Houses, respectively.

XI. And be it enacted, that in any case cognizable in a Commissioners' Court, it shall be lawful for any one of the Commissioners, upon request or application to him made, to grant and cause to be issued a Summons which shall be in the form of that one of the Schedules annexed to this Act which shall suit the case, and shall not be returnable within less than three days from the day of service, in cases where the Defendant shall reside within two leagues from the place at which he shall be summoned to appear, allowing one day ^{Summons, how issued.} more between the service and return of every such ^{Delay between service and return of Summons.}

Summons for every five leagues distance over and above the said two leagues.

Case of re-
cusation of
Commission-
ers provided
for.

XII. And be it enacted, that if in any suit all the Commissioners be recused by either party (and any recusation and the grounds thereof shall be reduced to writing) and the Court be thereby rendered incompetent to proceed with the case, such suit shall immediately be transmitted to the nearest Commissioners' Court in the same District; and if the recusation be there adjudged valid, such Court shall proceed to hear and determine the cause; but if the recusation shall be adjudged frivolous or unfounded, the parties shall be sent before the Court in which the Commissioners shall have been recused, in order that such Court may proceed as if the recusation had not been made; and in such case the Court before whom the cause shall have been originally brought, may, without any reference to the merits thereof, tax the costs of such frivolous or unfounded recusation against the party by whom it shall have been made.

Evocation and
Appeal allowed
in certain
cases.

XIII. And be it enacted, that in all cases where a Defendant or other party may evoke a suit out of any Circuit Court into the Court of King's Bench, or out of the Inferior term of any Court of Queen's Bench, into the Superior Term thereof, and may appeal from thence to the Court of Appeals for Lower Canada and to Her Majesty in Her Privy Council, such Defendant or other party, being a suitor before a Commissioners' Court, shall have the same right of evocation and appeal, and may evoke the suit to the Superior Term of the Court of King's (or Queen's) Bench for the District: Provided always, that in all cases where any suit or action, against any person residing within the Jurisdiction of any Court established by this Act for any cause or matter cognizable before such Court, shall

Proviso :—
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be brought before any District, Division, or Circuit Court, or Court of Queen's Bench, the Plaintiff shall not be entitled to recover any greater amount of Costs than if such suit or action had been brought before the Court established by this Act; but this limitation of Costs shall not applied to any action, suit, or prosecution, after evocation from such Court.

XIV. And be it enacted, that when any notarial instrument or authentic copy of the same, or any writing under private signature, produced in evidence in any suit before any Commissioners' Court shall be alleged to be forged or falsified, such allegation shall operate as an evocation of the suit to the Court of King's (or Queen's) Bench for the District, sitting in Superior Term.

XV. And be it enacted, that whenever any such evocation as is herein last mentioned shall occur, and security shall have been given as hereinafter provided, the Commissioner or one of the Commissioners before whom such document shall have been alleged to be forged or falsified, or the Clerk of the Court shall, within fifteen days next thereafter, certify and transmit to the Prothonotary of the Court of King's (or Queen's) Bench, the document impugned, all the documents produced in the cause, and a certified copy of the entries in the register respecting the same: Provided always, that no Commissioner or Clerk shall so transmit any such document, unless good and sufficient security for the payment of the costs of the "*inscription en faux*" shall have been given before him by the party making such inscription.

XVI. And be it enacted, that upon such evocation, the Court of King's (or Queen's) Bench shall hear, try, and determine the matter of the "*inscription en faux*," and the whole matter in issue between the par-

have been brought in Commissioners' Courts.

Allegation or forgery to operate as an evocation.

Transmission of the document alleged to be forged, &c. on such evocation.

Proviso;—Security to be given.

Court of Q. B. to try the case and the *inscription en faux*.

ties, as if the cause had been originally instituted in the said Court, and may award such costs against the party making such inscription, if he fail to substantiate the charge thereby made, as might in like case be awarded on an "*inscription en faux*," in any case before such Court.

Any matter before a Commissioners' Court may be referred to arbitration by consent of parties.

XVII. And be it enacted, that in any suit brought before any Commissioners' Court it shall be lawful, by consent of the parties, to refer the matter or matters in contestation in the suit, or for the Court in its discretion to order the same to be referred, to the judgment and decision of three Arbitrators, one to be named by the Court, and one by each of the parties respectively, and to be sworn before a Commissioner, or before any Justice of the Peace; and such Arbitrators shall have power to hear the parties and witnesses, and the report and award of any two of them shall be final and conclusive to all intents and purposes, and judgment shall be entered thereon, to be executed as in ordinary cases.

Commissioners may issue *subpœnas*.

XVIII. And be it enacted, that it shall be lawful for any Commissioner entitled to sit in the Court before which any suit or action shall have been instituted, on the application of either party, to issue orders of *subpœna* in the form prescribed in the Schedule to this Act, to compel the appearance of witnesses before the Court, under a penalty of not exceeding twenty shillings, nor less than five shillings, currency, for each and every default to attend, as by such order of *subpœna* commanded; and that it shall be lawful to and for any such Commissioner to administer to such witnesses, or to any party to the suit who may be lawfully examined therein, an oath or affirmation in the usual manner.

And administer oaths to witnesses, &c.

Except in certain cases, a

XIX. And be it enacted, that except as hereinafter excepted, it shall not be lawful to cause the witnesses

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in any suit to be summoned to attend on the day of the return of the Summons to the Defendant ; but that in all cases of default or plea to the action on the part of the Defendant, a subsequent day shall be named for receiving evidence ; saving always, that if the Defendant should make default when the service on him has been personal, it shall then be lawful for the Plaintiff to proceed immediately to prove his case by witnesses if necessary ; and in such cases, as well as in all cases of default, wherein sufficient written evidence shall be adduced on the day of the return, or where the Defendant shall confess judgment, or both parties shall agree that the case be heard and determined forthwith, the Court may hear the case and give judgment, *instantly*.

Exceptions.

Cases in which the cause may be heard *instantly*.

XX. And be it enacted, that it shall be lawful for any Commissioners' Court, to grant a stay of execution, and to order that the amount for which judgment shall have been given, be paid in two or in three instalments, at intervals of not more than one month each ; provided that if any one of the said instalments shall not be paid at the time appointed, execution may at once issue for so much as shall then remain due : Provided always, that when any poor Defendant shall before Judgment, offer good and sufficient security to the satisfaction of the Court, for the amount of the debt and costs, the Court may order that the amount of the judgment be paid by weekly instalments, the last of which shall not be made more than six months after the date of the Judgment.

Proviso.

XXI. And be it enacted, that if any party shall refuse or neglect to pay, and satisfy any judgment rendered in a Commissioners' Court for a sum of money within eight days after it is obtained, together with such costs as shall be adjudged thereon, any one of the Commissioners entitled to sit in the Court may, by a warrant

Executions to issue if the judgment be not satisfied : its nature.

9. 1843. nally instituted in costs against the il to substantiate in like case be n any case before

ny suit brought ll be lawful, by er or matters in rt in its discre- o the judgment e named by s respectively, or before any tors shall have and the report nal and con- dgment shall s in ordinary

be lawful for Court before nstituted, on lers of sub- edule to this s before the twenty shil- cy, for each r of subpæ- to and for uch witness- be lawfully the usual

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Costs on it.

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of execution under his hand and seal, and in the form of the Schedule hereunto annexed, cause the same to be levied by the seizure, and after public notice thereof shall be given according to law, by the sale of the goods and chattels of the party so refusing or neglecting as aforesaid, which shall be found within the District, together with the costs and charges attending such execution, which shall not in any case exceed the sum of seven shillings and six pence, currency : Provided always, that when the seizure only of the goods shall have taken place, the said costs and charges shall not exceed the sum of three shillings and nine pence, currency ; travelling expenses and expenses of feeding any cattle seized, excepted in all cases.

Commissioners' Courts may issue warrants in the nature of certain writs.

XXII. And be it enacted, that it shall be lawful for any Commissioners' Court, in cases cognizable by such Court, to issue Warrants of *saisie gagerie*, and *saisie revendication* (the necessary affidavit being first made before a Commissioner of such Court) and of *saisie arrêt* after judgment, in all cases where Writs of like nature are allowed to issue out of other Courts by law ; and that such Warrants shall respectively be in the forms prescribed in the Schedules hereunto annexed.

Return day to be appointed in warrants of execution or of seizure.

XXIII. And be it enacted, that in every Warrant of execution, *saisie arrêt*, *saisie revendication*, and *saisie gagerie*, the day on which it is to be returned shall be named, and it shall be returned, with the proceedings thereon duly certified, on the day so named, which shall not be less than fifteen nor more than forty days from the date of such Warrant.

Oppositions, interventions, &c. how to be decided.

XXIV. And be it enacted, that all oppositions allowed by a Commissioner, interventions, and *saisie arrêts*, after judgment, shall be heard and decided summarily before the said Commissioners' Courts, in the

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same manner as the causes in which they shall arise, or to which they shall relate.

XXV. And be it enacted, that the Commissioners by whom such Courts shall be held, shall have such and the like powers and authority to preserve order in the said Courts during the holding thereof, and by the like ways and means, as now by law are or may be exercised and used in the like cases and for the like purposes, by any Courts of Law in this Province, or by the Judges thereof, respectively, during the sittings thereof.

Commissioners' Courts to have powers for preserving order.

XXVI. Provided always, and be it enacted, that in all cases where any resistance shall be offered to the execution of any summons, warrant of execution, or any other process, issued out of any Commissioners' Court, under the authority of this Act, the Court is hereby empowered to enforce the due execution of the same, by the means provided by the laws of Lower Canada for enforcing the execution of the process of other Courts in like cases.

And for enforcing execution of process.

XXVII. And be it enacted, that a Clerk shall be appointed for each Commissioners' Court under this Act, and the appointment shall be vested in the Commissioner, or in the majority of the Commissioners where there are two Commissioners and no more, the appointment of such Clerk shall be vested in the Commissioner whose name shall be first upon the list: Provided always, that any Clerk who shall be appointed under this Act, shall be removeable by the Commissioner, or by the Commissioners, or by a majority of them, and another Clerk may be appointed in his stead in the manner hereinbefore provided; and provided also, that such Clerk may, with the permission of the Commissioners or of a majority of them, appoint a Deputy, for whose acts he shall be responsible, and whom he may remove at pleasure.

Clerks to be appointed for each Court and by whom.

Proviso.

Proviso.

No more than
one Clerk to be
appointed for
any one Court.

• XXVIII. And be it enacted, that no more than one Clerk shall be employed or in any way act as Clerk of the Commissioners' Court in any one Parish, Township, or extra-Parochial place, although two or more Commissioners may have been appointed in such place.

Property qual-
ification re-
quired in any
person appoint-
ed as Clerk—
unless he shall
give security.

XXIX. And be it enacted, that no person shall be appointed Clerk of any Commissioners' Court, who shall not have to and for his own use and benefit, and in his actual possession, a freehold estate, either in fief, *en rôtur*e, or in free and common soccage, in absolute property, or by *emphitéose*, originally created for a term of at least twenty-one years, or by *usufruit* for his life, in lands, tenements, or other immoveable property, lying and being within the limits of the County, in which he is to act, of the yearly value of twelve pounds currency, over and above what will satisfy and discharge all incumbrances affecting the same, and over and above all rents and charges payable out of the same; unless such person shall give good and sufficient security, before one of the Commissioners entitled to sit in the Court, for the due performance of his duties, to the amount of fifty pounds currency, in which case he may act as a Clerk in the same manner as if he were qualified by property in the manner hereinbefore mentioned: Provided also, that no person who shall not have reached the legal age of majority, nor any Bailiff, Serjeant of Militia, or person keeping a house of Public Entertainment or Tavern Keeper, or vending spirituous or fermented liquors to be drunk in his house, or on his premises, shall be appointed as Clerk, and no Justice of the Peace, nor any person being the father, son, brother, brother-in-law, son-in-law, or nephew, or the clerk or agent of any one of the Commissioners, in his private concerns, shall be or act as Clerk of the Court in which such Commissioner shall be entitled to sit.

Certain per-
sons not to be
Clerks.

Clerk to keep
a Register : its
contents.

XXX. And be it enacted, that for each Commissioners' Court, there shall be kept by the Clerk a re-

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register of all suits which shall be instituted before such Court, and of all proceedings had and all judgments rendered therein, and of every matter and thing concerning the same, which register shall contain a succinct statement of the names, additions, and residence of the parties, the nature of the demand, and the defence set up, and shall specify what papers (if any) were produced as evidence in the cause, and the date of such papers, and when any notarial instrument shall so be produced, shall state the names of the Notaries before whom such instrument shall have been executed; and the Clerk shall give a copy of such entries to any person demanding the same; and for every such copy, there shall be allowed to the Clerk, at the rate of six pence currency for every hundred words: under a penalty of ten pounds currency, on any Clerk who shall refuse or neglect to give a copy thereof, to be recovered by the party to whom such copy shall have been refused.

Copies to be
given at a cer-
tain rate.

XXXI. And be it enacted, that the register of the Commissioners' Court for any Parish, Township, or extra-Parochial place, shall continue to be the register of the Commissioners' Court for the same place, notwithstanding any change in the persons who shall for the time being be Commissioners or Clerk, but whenever there shall cease to be a Commissioners' Court in such place, then the person in whose hands the register shall then be, shall forthwith deposit the same and all papers belonging to the Court, in the office of the Prothonotary of the Court of King's (or Queen's) Bench for the District in which the Court shall have been held, and this under a penalty of twenty-five pounds, currency: Provided always, that the Clerk of any Com-

Register to
continue to be
that of the
Court, not-
withstanding
change of
Commissioners
or Clerk.

Proviso.

missioners' Court who shall cease to perform the duties of his office, (or in case of death, his heirs or legal representatives) shall, under the same penalty, forthwith deliver the register and papers in his or their pos-

session to the Commissioner or Commissioners, or to the person appointed to be Clerk of the said Court.

Who may act
as an Attorney
before a Com-
missioners'
Court.

Persons not
commissioned
to practise the
Law must act
gratis.

Penalty.

Proviso.

Proviso.

Who may
serve process
of a Commis-
sioner's Court.

XXXII. Provided always, and be it enacted, that no Bailiff or Sergeant of Militia shall, in any case, act as Attorney before any Commissioners' Court, nor shall any other than an Attorney or Barrister, duly commissioned to practise the Law in Lower Canada, so act without a power of Attorney in writing, except in presence of the party and at his request; and any person not duly commissioned to practise the Law as aforesaid, who shall act or practise before any Commissioners' Court as Attorney of the parties, Plaintiff or Defendant, shall be bound to do so *gratis* without demanding or receiving any fee, perquisite or remuneration whatsoever; and any person acting or practising as Attorney of any party, before the said Commissioners or any of them, without being duly commissioned to practise the Law as aforesaid, who shall directly or indirectly receive, in consideration of such services, any fee, emolument, or remuneration whatsoever, shall be held to have obtained the same under false pretences with intent to defraud the party from whom he shall have received it, and shall be liable to punishment accordingly, and shall for ever after be incapable of acting as Attorney before any Commissioners' Court: Provided also, that no Clerk of any such Court shall act as Attorney or *Porteur de Pièces* in any case whatsoever: And provided further, that no Bailiff or other person who shall have served or executed any summons or process in any suit, shall be a competent witness in such suit on behalf of the party by whom such summons or process shall have been sued out, except only with regard to the service or execution of the same.

XXXIII. And be it enacted, that no summons, order or other process issued under this Act, shall be served

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or executed, except by a Bailiff or a Sergeant of Militia, nor by any Bailiff or Sergeant of Militia not residing in the Parish, Township, or extra-Parochial place wherein the Defendant or witness may respectively reside, unless he shall renounce all claim to any greater sum for travelling expenses than that to which a person being resident therein would be entitled, except where there shall be no Bailiff nor Sergeant of Militia residing in the Parish, Township, or extra-Parochial place, wherein any such process is to be served, qualified or willing to make a return in writing, in which case such process may be served or executed by a Bailiff or Sergeant of Militia residing out of such place, and he shall be allowed his travelling expenses from the residence of the Bailiff or Sergeant of Militia residing nearest to the place where the service is to be made, or the Commissioner may in such case specially address such process to any other person by name, resident in the Parish, Township, or place where the service is to be made, who shall make oath to the due service and execution thereof: *Provided always,* that no warrant of execution or process authorizing the seizure of any property whatever shall be addressed to any other person than a Bailiff.

What mileage
may be allow-
ed.

Provida.

XXXIV. And whereas, it is right to fix the costs in such causes as shall be determined under this Act in any Commissioners' Court; Be it therefore enacted, that it shall be lawful for the Clerk of any Commissioners' Court, to demand and receive for every summons which he shall make and deliver to any Suitor by order of the Court, or of any Commissioner entitled to sit therein, one shilling and six pence currency; for every copy of a summons, six pence currency; for every *subpoena*, nine pence currency; for every copy of a *subpoena*, six pence currency; for every judgment and copy thereof, one shilling and three pence currency; for every warrant of execution or seizure, one

Fees allowed
on certain pro-
ceedings.

shilling and three pence currency ; for every copy thereof, six pence currency ; for entering every opposition allowed by a Commissioner, six pence currency ; and that the Bailiff or Sergeant of Militia may demand and receive for every service of process and certificate thereof, the sum of one shilling currency, and at the rate of four pence currency, per mile, for the distance he shall have gone to perform such service, the distance in returning not entitling him to any allowance: Provided always, that the Bailiff or Sergeant of Militia, by whom any service shall be made as aforesaid, upon one and the same Defendant, shall not be entitled to travelling expense, on more than one journey though he may have more than one summons or process to serve: And provided also, that if any Plaintiff who, having given more than one summons or process to one Bailiff or Sergeant of Militia to be by him served, shall compound with him for a less sum than that to which he would be entitled, or if any Bailiff or Sergeant of Militia shall consent to any such composition, and such Plaintiff, or such Bailiff or Sergeant of Militia shall afterwards receive from any person or persons, under colour of receiving the costs on the service of such summons or process, a greater sum than that so compounded for, he shall be deemed to have obtained the same under false pretences with intent to defraud the party from whom he shall have received it, and shall be liable to punishment accordingly.

Proviso—As
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Costs in cases
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for no more
than ten shil-
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XXXV. Provided always, and be it enacted, that when the sum or the value of the thing for which judgment shall be rendered in any Commissioners' Court shall not exceed ten shillings, currency, the costs and expenses (exclusive of travelling expenses and of arbitration) which shall be adjudged against the Defendant, may be reduced and restrained by order of the Court to the principal sum or the value of the thing for which judgment shall be given, in case it shall ap-

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appear just to the Court to make such order; any thing herein contained to the contrary notwithstanding.

XXXVI. And be it enacted, that no Commissioner shall be entitled to, or receive any recompense or remuneration whatever, for any thing by him done under this Act. Commissioners to act gratis.

XXXVII. Provided always, and be it enacted, that every Commissioner (except the Circuit Judges aforesaid, whose oath of office as such shall be held to extend to their duties under this Act) before proceeding to exercise his functions as such, shall take and subscribe an oath before some Justice of the Peace, well and duly, to the best of his judgment and capacity, to perform the duty of Commissioner as required by this Act, of which oath such Justice of the Peace shall give a copy and certificate to the Commissioner having taken it, who shall cause the same to be annexed to the register of the Court in which he shall sit; and the Clerk of any such Court shall in like manner, before entering upon the duties of his office, make oath before a Commissioner entitled to sit therein, faithfully and impartially to execute, to the best of his ability, the duties of his office according to the provisions of this Act, and such oath shall be entered upon the register aforesaid. Commissioners and Clerks to take an oath of office.

XXXVIII. And be it enacted, that any Commissioner or any Clerk, who in the execution of the trust reposed in him shall misdeemean himself, or deliver to any Bailiff or Sergeant of Militia or other person, any process to be by him or them distributed, sold, or otherwise illegally disposed of, shall, for each such offence, incur a penalty of ten pounds, currency, and shall be thenceforth disabled from acting as Commissioner or Clerk as aforesaid. Penalty on Commissioners or Clerks guilty of misconduct as such.

Penalties:—
how recovered
and appropriated.

XXXIX. And be it enacted, that all pecuniary penalties hereby imposed or incurred for offences committed against this Act, may be sued for and recovered before any Court having civil jurisdiction to the amount of the fine or penalty, in the District in which the offence shall have been committed; and one moiety of such penalties shall go to the person suing for the same, and the other moiety shall be paid into the hands of the Receiver General, and shall form part of the Consolidated Revenue Fund of this Province.

Falseswearing
to be perjury.

XL. And be it enacted, that any wilful false swearing or false affirmation in any case in which an oath or affirmation is authorized by this Act, shall be held to be wilful and corrupt perjury, and punishable accordingly.

Each Commission-
er to receive a copy of
this Act.

XLI. And be it enacted, that each Commissioner appointed under this Act, shall be entitled to receive a printed copy thereof, in the French and English languages, to be transmitted to him, in the manner by law provided for the distribution of the printed Acts of the Legislature.

Interpretation
clause.

XLII. And be it enacted, that the words "Governor of this Province," wherever they occur in the foregoing enactments, shall be understood as meaning and comprehending the Governor, or the person authorized to execute the Commission of Governor within this Province for the time being; that the words "Lower Canada," wherever they occur in the said enactments, shall be understood as meaning and comprehending that part of this Province which formerly constituted the Province of Lower Canada; and that any word or words importing the singular number or the masculine gender only, shall be understood to include several matters of the same kind as well as one matter, and several persons as well as one person, and bodies corporate as

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well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

SCHEDULE No. 1.

FORM OF SUMMONS.

Province of Canada, }
District of }

In the Commissioners' Court for the Parish (Township, or extra-Parochial Place, as the case may be) of

To A. B. of (*A. B.'s residence*), in the said District, Carpenter, (*or as the case may be*) Greeting:—

You are hereby commanded to pay to C. D. of (*C. D.'s residence*), Grocer, (*or as the case may be*), the sum of Currency, which he demands of you as being due to him for (*state briefly the cause of action*), and remaining unpaid, with his costs; or to appear before this Court, at the house of in the said Parish (*or as the case may be*) of at o'clock, in the noon, of the day of next, (*or instant*) to answer the demand of the said C. D., otherwise judgment may be given against you by default.

Given under my Hand and Seal, this
day of in the year of our Lord 18

E. F., Commissioner.

. { L. S. }

SCHEDULE No. 2.

FORM OF SUBPENA.

Province of Canada, }
 District of }

In the Commissioners' Court for the Township (*or, as the case may be,*) of

To

Greeting:—

You are hereby commanded, that laying aside all business and excuses, you (and each of you) be and appear in your proper person before this Court, at the house of in the said Parish (*or as the case may be*) of on the day of at o'clock in the noon, then and there to testify whatever you or either of you may know, in a cause between Plaintiff, and Defendant, pending before this Court. (*If the Witness be required to bring with him any paper, or thing, mention it.*) And this you or either of you shall by no means omit, under the penalties of the law.

Given under my Hand and Seal, this
 day of 18

E. F., Commissioner.

{ L. S. }

SCHEDULE No. 3.

FORM OF A WARRANT OF EXECUTION TO LEVY A SUM
OF MONEY.

Province of Canada, }
District of }

In the Commissioners' Court for the Parish (or, as
the case may be,) of

To any Bailiff in the said District of

Greeting :—

Whereas A. B. of (A. B's residence,
and profession, trade or calling,) did on the
day of before this Court, recover Judg-
ment against C. D. of (C. D's resi-
dence, and profession, trade or calling,) for the sum of

for his debt, and
for his costs, of which execu-
tion remains to be done : You are therefore hereby
commanded to levy, of the goods and chattels and
effects of the said C. D., except his beasts of the
plough, his implements of husbandry, and the tools of
his trade, unless the other goods and chattels shall prove
insufficient, and excepting always the bed and bedding
and the necessary wearing apparel of himself and his
family, and also one cow, three sheep, one hog, a single
stove, and one cord of firewood, to be selected by him
out of any larger number he may have,—(if the seiz-
ure be in satisfaction of a debt contracted for any cow,
sheep, hog, stove, or firewood, it will be seizable, and

must be left out of the list of articles exempt from seizure,) the aforesaid sum and costs, together with
 for the costs of this execution, returning to
 the said C. D. the overplus, if any there be, after hav-
 ing satisfied the aforesaid sums; and you are further
 commanded to make return of this Warrant, with
 your doings thereon before this Court, at the
 house of in the said Parish (or as
the case may be) of on or before the
 day of next (or instant).

Given under my Hand and Seal, this day of
 in the year of our Lord 18

E. F., Commissioner.

{ L. S. }

SCHEDULE No. 4.

FORM OF A WARRANT OF SIMPLE *SAISIE EN MAIN*
TIERCE.

Province of Canada, }
 District of }

In the Commissioners' Court for the Parish (or, as the
case may be,) of

To any Bailiff of the said District of

Greeting :—

At the instance of A. B. of

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residence and profession, trade or calling,) you are here-
by commanded for assuring the payment of the sum
of pounds due him by C. D., of

(C. D.'s residence and profession, trade
or calling,) under Judgment of this Court, (state briefly
the subject and date of the judgment,) to seize and at-
tach in the hands of E. F., of

(E. F.'s residence and profession, trade or calling,) all
sums and things generally whatsoever, which he owes
or shall owe on any account whatsoever, or shall have
in his hands belonging to the said C. D., strictly pro-
hibiting him from parting with the same, on pain of
paying the same twice, and of being personally liable
for the sum so due to the said A. B., as aforesaid.

And you are further commanded to summon the said
C. D. and E. F. to appear before this Court, at the
house of in the said Parish,

(or as the case may be) of , on the
day of next, (or instant) at
o'clock in the noon, the said C. D. to show
cause why this attachment (*saisie arrêt*) should not
be declared good and valid, and the said E. F. to make
his declaration under this warrant; notifying them that
otherwise order may be made in the matter by default;
and have you then and there this warrant, with your
doings thereon.

Given under my Hand and Seal, this
day of 184

G. H., Commissioner.

{ L. S. }

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A. B.'s

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SCHEDULE No. 5.

FORM OF A WARRANT OF *SAISIE GAGERIE*.

Province of Canada, }
 District of }

In the Commissioners' Court for the Township (or, as
 the case may be) of

To any Bailiff in the said District of

Greeting:—

At the instance of A. B. of you
 are hereby commanded to distrain, by *Saisie Gagerie*,
 all the goods and chattels belonging to C. D., of
 (C. D.'s residence, and profession,
 trade or calling,) and being in the house by him occu-
 pied, (or the produce and effects in the barns and other
 buildings occupied by the said C. D.) for the surety and
 payment of the sum of due by
 the said C. D. to the said A. B. for the rent of the
 said premises, held by him of the said A. B.

And you are further commanded to summon the said
 C. D. to appear before this Court, at the
 house of , in the said Township (or as
 the case may be) of at of
 the clock in the noon, on the
 day of instant, (or next) to answer
 the demand of the said A. B., and to show cause why
 the said *Saisie Gagerie* should not be declared good and
 valid; notifying the said C. D. that if he fail so to ap-
 pear, either in person or by his Attorney, judgment

may be given against him by default ;—and have you then and there this warrant with your doings thereon.

Given under my Hand and Seal, this
day of _____, in the year of Our Lord 18

E. F., Commissioner.

{ L. S. }

SCHEDULE No. 6.

FORM OF A WARRANT OF SAISIE REVENDICATION.

Province of Canada, }
District of }

In the Commissioners' Court for the Township (or as the case may be) of

To any Bailiff in the said District of

Greeting:—

At the instance of A. B., of _____ (*A. B.'s residence or profession, trade or calling,*) you are hereby commanded to seize a certain cart painted red, (or as the case may be) to be further described and pointed out to you by the said A. B., and which he claims as being his property, unjustly detained from him by C. D., of _____ (*C. D.'s residence and profession, trade or calling,*) and safely to keep the said cart, so as to have the same forthcoming to abide the judgment to be given in the case.

And you are further commanded to summon the said C. D. to appear before this Court, at the house of _____ in the said Township (*or as the case may be*) of _____ at _____ o'clock in the _____ noon, on the _____ day of _____ instant, (*or next,*) to answer the demand of the said A. B., and to show cause why the said seizure should not be declared good and valid, and the said cart to be the property of the said A. B.; notifying the said C. D., that if he fail so to appear, either in person or by his Attorney, judgment may be given against him by default; and have you then and there this warrant, with your doings thereon.

Given under my Hand and Seal, this _____ day of _____, in the year of Our Lord 18

E. F., Commissioner.

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